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APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
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08/868,762 06/04/97 PROVOST

G 05918/005003

EXAMINER

35M1/0109

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SAKRAI, Y ART UNIT PAPER NUMBER

5

3507

DATE MAILED:
01/09/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- Responsive to communication(s) filed on _____
- This action is FINAL.
- Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire THREE month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- Claim(s) 1-29 is/are pending in the application.
- Of the above claim(s) 1-8 is/are withdrawn from consideration.
- Claim(s) 9-15, 17, 24 & 25 is/are allowed.
- Claim(s) 16, 18-23 & 26-29 is/are rejected.
- Claim(s) _____ is/are objected to.
- Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- The drawing(s) filed on _____ is/are objected to by the Examiner.
- The proposed drawing correction, filed on _____ is approved disapproved.
- The specification is objected to by the Examiner.
- The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- All Some* None of the CERTIFIED copies of the priority documents have been
- received.
- received in Application No. (Series Code/Serial Number) _____
- received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- Notice of Reference Cited, PTO-892
- Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- Interview Summary, PTO-413
- Notice of Draftsperson's Patent Drawing Review, PTO-948
- Notice of Informal Patent Application, PTO-152

-SEE OFFICE ACTION ON THE FOLLOWING PAGES-

BEST AVAILABLE COPY

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 148 USPQ 459, that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or unobviousness.

Claims 16, 18-23 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Erb et al '067 in view of Menzin et al '000 (both cited by applicant).

Erb et al discloses applicant's claimed combination of a hook and loop fastening system by injection molding including a base, a stem connected to said base, a crook having a first end and a hook tip defining a substantially smooth curve ending at the hook tip, wherein the hook having a width, a height and a displacement volume; see Fig. 3 and the entire document except that the base with the hook stem molded integrally to the base. Menzin et al teaches the use of a planar base with hook stem molded integrally to the base; see Figs. 13-15, the abstract and the entire document. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method of forming the hook and the base of Erb et al by merely

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molding its base with the hook stem integrally together in the manner taught and suggested by Menzin, especially, since such modification involves only routine skill in the art.

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over the same references as applied to claims 16, 18-23 and 26 above, and further in view of Provost et al '339 (cited by applicant) who teaches the use of hooks having different orientations to provide multidirectional shear operation and each of said hook is tapered and having concave fillets where the stem is connected to the base; see Figs. 11-16 and to further incorporate such structure in Erb et al in the manner taught and suggested by Provost. Furthermore, the particular shape, location and/or the arrangement selected of an element is consider to be an obvious matter of design choice, especially, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

Claims 9-15, 17, 24 and 25 are allowed.

Any inquiry concerning this communication should be directed to Examiner Victor Sakran at telephone number (703) 308-2168.

Sakran/ph

January 06, 1998


VICTOR N. SAKRAN
PRIMARY EXAMINER
ART UNIT 357